Remarks

The above Amendments and these Remarks are in reply to the Office Action mailed January 30, 2003 ("Office Action") in patent application Serial No. 10/023,525.

The Examiner has objected to misnumbered claim 35. Claim 35 has been properly numbered claim 34. Accordingly, it is respectfully requested the Examiner withdraw the objection to the claims.

Claims 1-10, 12-13, 16, 18-20, 23, 25-27, 29-34, 37-42 44-46, 48-50 and 54 have been presently amended and claims 11 and 28 have been cancelled. Claims 55-57 have been added.

Claims 1-3, 9-11, 16, 25-28, 37-39, 42, 44, 46, 47, 50-51 and 54 are rejected under 35 U.S.C. §102(e) as being anticipated by *Dooley et al.* (U.S. Publication No. US-2002-00337700).

Claims 4 and 46 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Dooley et al.* in view of *Barnett* (U.S. Patent No. 6,343,276).

Claims 5-8, 40-41 and 44 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Dooley et al.* in view *Borgstahl et al.* (U.S. Patent No. 6,487,180).

Claims 12-15, 29-31, 48 and 52-53 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Dooley et al.* in view of *Bigwood et al.* (U.S. Publication No. US-2002-0086718).

Claims 17-24, 32-36 and 49 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Dooley et al.* in view of *Gorsuch* (U.S. Publication No. US-2002-0160764).

I. Rejection of Claims 1-3, 9-10, 16, 25-27, 37-39, 42, 44, 46, 47, 50-51 and 54 Under 35 U.S.C. §102(e)

Claims 1-3, 9-10, 16, 25-27, 37-39, 42, 44, 46, 47, 50-51 and 54 are rejected under 35 U.S.C. §102(e) as being anticipated by *Dooley et al.*

Dooley et al. teaches a communication system between "short range base stations" or beacons 12, 14 and a mobile telephone 10. Page 1, [0028]. *Dooley et al.* teaches a method for transmitting messages between the base stations 12, 14 and telephone 10, such that a base station is in a "'inquiry scan' mode rather than transmitting inquiry messages" which greatly reduces the volume of over-the-air traffic. Page 1, [0010]. Base stations 12 and 14 are located in public environments, such as a shopping mall and provide "location-specific information such as local maps or information on nearby shops and restaurants". Page 3, [0028]. Base stations download information keys to telephone 10.

Dooley et al. defines an information key as:

> ...a small data object that provides a reference to a source of full information, an it is in the form of a number of predetermined fields, one of which will contain a short piece of descriptive text presented to a user. Another filed will be a pointer or address of some form, for example a URL or telephone number. Page 3, [0028].

A. Claims 1-3 and 16

In direct contrast, amended claim 1 calls for "obtaining information from a first device in a short distance wireless network"..."wherein the information is WAN telecommunication usage of the first device." As seen above, *Dooley et al.* uses fixed base stations to advertise where restaurants and shops are located by transferring a pointer to a map. There is no teaching in *Dooley et al.* of base stations 12, 14 accessing or using a WAN, and "obtaining information" of such usage. *Dooley et al.* teaches reducing message traffic between a particular base station and

telephone 10, whereas the present application is directed toward increasing traffic and the monitoring of such traffic.

Claims 2, 3 and 16 depend from independent claim 1 and are therefore patentable for at least the same reasons described above in regard to claim 1.

B. Claims 9-10

Claims 9-10 depend from claim 1 and therefore are patentable for at least the same reasons described above in regard to claim1.

Further, claim 9 calls for the transferring step to include "transferring the information from a cellular telephone to the second device." *Dooley et al.* does not teach transferring the pointer to the "second device in a Wide Area Network."

Amended claim 10 calls for the obtaining step to further include "obtaining the information in an Internet Protocol ("IP") packet." In contrast, *Dooley et al.* teaches transmitting the pointer by FHS packets. Page 4, [0039].

C. Claims 25-27

Amended claim 25 calls for "transferring the first device information from the second device to a third device in a Wide Area Network ("WAN"); and, providing a user of the short distance wireless network with an object responsive the first device information and user information, wherein the providing step further includes the step of obtaining user information from a database in the WAN."

In rejecting claim 25, the Examiner cited paragraph [0028], but has not identified with particularity where *Dooley et al.* teaches "an object" and "the first device information." As

described above, *Dooley et al.* does not teach transferring the pointer to "a third device in a Wide Area Network ("WAN")" and if the Examiner believes "the first device information" is taught by the pointer, *Dooley et al.* does not teach "providing ...an object responsive to the first device information and user information." The Examiner has not shown where *Dooley et al.* teaches a database in a WAN having user information and how an object is provided "responsive to the first device information and the user information." The pointers taught by Dooley et al. are not provided "responsive to user information from a database in the WAN."

Claims 26 and 27 depend from claim 25 and therefore are patentable for at least the same reasons described above in regard to claim 25.

D. Claims 37-39

Claims 37 and 39 depend from claim 25 and therefore are patentable for at least the same reasons described above in regard to clam 25.

Claim 37, like claim 1, calls for "the information is a telecommunication usage on a WAN" and therefore is patentable for at least the same reasons described above in regard to claim 1.

Further, claim 37 calls for "the object is a message for limiting the telecommunication usage on a WAN." *Dooley et al.* does not teach such a message. The Examiner has not identified where *Dooley et al.* teaches generating "a message for limiting telecommunication usage on a WAN."

E. Claims 42, 44, 46 and 47

Claims 42, 44, 46 and 47 depend from claim 25 and therefore are patentable for at least the same reasons described above in regard to clam 25.

F. Claims 50, 51 and 54

Claim 50 is similar to claim 25 and therefore is likewise patentable.

Further, Claim 51 calls for "the object is an invoice for usage of the device on the wide area network." *Dooley et al.* does not teach providing "an invoice for usage of the device" for the base stations 12, 14.

Claim 54 calls for "...a short-range radio signal, containing a usage information of a device on a wide area network..." and ...a cellular signal, containing the usage information..." As described above, the *Dooley et al.* base stations do not provide "usage information of a device on a wide area network."

Accordingly, it is respectfully requested that the Examiner withdraw the rejection of claims 1-3, 9-10, 16, 25-27, 37-39, 42, 44, 46, 47, 50-51 and 54 under 35 U.S.C. §102(e) as being anticipated by *Dooley et al.*

II. Rejection of Claims 4 and 46 Under 35 U.S.C. §103(a)

Claims 4 and 46 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Dooley et al.* in view of *Barnett.*

Claims 4 and 46 depend from independent claims 1 and 25, respectfully, and therefore patentable for at least the same reasons.

Accordingly, it is respectfully requested that the Examiner withdraw the rejection of claims 4 and 46 under 35 U.S.C. §103(a) as being unpatentable over *Dooley et al.* in view of *Barnett.*

III. Rejection of Claims 5-8, 40-41 and 44 Under 35 U.S.C. §103(a)

Claims 5-8, 40-41 and 44 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Dooley et al.* in view *Borgstahl et al.*

A. Claims 5-8 and 40-41

Claims 5-8 and 40-41 depend from independent claims 1 and 25, respectfully, and therefore are patentable for at least the same reasons described above in regard to claims 1 and 25.

Further, in rejecting claims 5-8 and 40-41 the Examiner stated it is obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of *Borgstahl et al.* and *Dooley et al.* "in order to support an infrastructure in portability and moveability of nodes." Office Action, page 8.

However, *Dooley et al.* explicitly teaches and suggests stationary or fixed nodes. Beacons 12, 14 are "base stations" ..."to provide location specific information" for fixed public environments. Page 3, [0028]. *Dooley et al.* teaches away from an infrastructure of portable and moveable nodes. Most of the nodes in the short distance wireless network taught by *Dooley et al.* are fixed and not moveable. In combining the references, the Examiner must look to the teachings of both references as a whole and not use the present application as a road map for improper hindsight.

Also *Borgstahl et al.* teaches requiring peers to perform a "needs and capabilities" step in establishing a communication link, which is not required by the present claims or *Dooley et al.*

Accordingly, it is respectfully requested that the Examiner withdraw the rejection of claims 5-8, 40-41 and 44 under 35 U.S.C. §103(a) as being unpatentable over *Dooley et al.* in view *Borgstahl et al.*

IV. Rejection of Claims 12-15, 29-31, 48 and 52-53 Under 35 U.S.C. §103(a)

Claims 12-15, 29-31, 48 and 52-53 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Dooley et al.* in view of *Bigwood et al.*

Bigwood et al. teaches a method for monitoring the condition of batteries used by a mobile radio telecommunication fleet. A radio infrastructure 2 is used by an interrogation application 1 to obtain the condition of a battery.

A. Claims 12-15, 29-31, 48 and 52-53

Claims 12-15 and 29-31 depend from independent claims 1 and 25, respectfully, and therefore are patentable for at least the same reasons described above in regard to claims 1 and 25.

In rejecting claims 12-15, 29-31, 48 and 52-53 the Examiner stated "it would have been obvious to one of ordinary skill in the art at the time of the invention to include an indication of the health of a device [such as a battery] in order to provide an automatically updated database of the current condition of the device." Office Action, page 9-12.

First, as stated above, *Dooley et al.* teaches fixed base stations 12, 14 as opposed to the "radio telecommunication fleet" described in *Bigwood et al. Dooley et al.* does not teach or

suggest the use of batteries in fixed base stations 12, 14. In direct contrast to *Bigwood et al.*, *Dooley et al.* suggests fixed base stations that are likely to have a power source other than batteries because they are located in a public environment in which an on-line power source would likely be available. The on-line power source would eliminate the cost and expense of replacing batteries. Moreover, base stations 12, 14 appear to be relatively simple devices responsible for only transmitting a pointer and probably do not include many components that may fail.

So like above, the Examiner may not improperly pick and choose teachings from the references and must look to the teachings as a whole.

Second, *Bigwood et al.* does not teach, "providing... a replacement device" or "battery" as required by claims 14, 15, 30, 31, 48, 52 and 53. *Bigwood et al.* appears to merely teach monitoring and recording the condition of a battery. In particular, claim 30 calls for "mailing the battery" which is clearly not taught.

Third, Bigwood *et al.* does not teach "a short distance wireless network" as required by claims 14, 15, 30, 31, 48 or "a device to generate a short-range radio signal" as required by claims 52 and 53.

Accordingly, it is respectfully requested that the Examiner withdraw the rejection of claims 12-15, 29-31, 48 and 52-53 under 35 U.S.C. §103(a) as being unpatentable over *Dooley et al.* in view of *Bigwood et al.*

V. Rejection of Claims 17-24, 32-36 and 49 Under 35 U.S.C. §103(a)

Claims 17-24, 32-36 and 49 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Dooley et al.* in view of *Gorsuch*.

Gorsuch teaches a wireless communication system having mobility-based content delivery. A user is delivered content based on three defined mobility states: stationary, pedestrian, and mobile. Page 3, [0040]. A user also may have three tiers of service depending on a particular mobility state. Page 3, [0041].

A. Claims 17-24, 32-36 and 49

Claims 17-24 and 32-26 depend from claims 1 and 25, respectfully, and therefore are patentable for at least the same reasons described above in regard to claims 1 and 25.

In rejecting claims 17-24, 32-36 and 49, the Examiner stated "it would have been obvious to one of ordinary skill in the art at the time of the invention to include an invoice to maintain a wireless link pricing plan in traffic area." Office Action, pages 13-17.

Claim 19 calls for "the invoice includes a first charge for the first device...transferring a first type of data ...and a second charge for the first device transferring a second type of data." In contrast, *Gorsuch* appears to teach a pricing plan based on the mobility state of the user. There is no teaching of different charges based on "type of data" transferred. *Gorsuch* appears to teach that a user will be charged based on whether and how the user is moving when accessing a WAN.

Claim 36 similarly calls for "the charges are a function of the type of data transferred" which is likewise not taught or suggested by *Gorsuch.*

Similarly, claims 20 and 34 call for " a first charge for a first type of device" and "a second charge for a second type of device" and "charges are a function of device type."

Gorsuch does not teach or suggest charging based on the "device type." As above, *Gorsuch* appears to teach charging based on the mobility of the user.

Claims 23-24 call for "providing a promotional plan." The Examiner has not identified with any particularity where *Gorsuch* teaches providing a promotional plan in paragraphs [0039-0041]. Claim 24 calls for "providing the first user a device, at a discounted cost..." *Gorsuch* does not teach providing such a "discounted" device "in a promotional plan."

Claim 49 calls for "generating a short-range radio signal, containing usage information of a device on the telecommunication network, from the device in a short distance wireless network to a cellular device." Neither *Dooley et al.* nor *Gorsuch* teach or suggest such a limitation. Base stations 12 and 14 do not generate a short-range radio signal containing usage information of a base station on WAN 54. Likewise, *Gorsuch* does not teach or suggest such a limitation.

Accordingly, it is respectfully requested that the Examiner withdraw the rejection of claims 17-24, 32-36 and 49 under 35 U.S.C. §103(a) as being unpatentable over *Dooley et al.* in view of *Gorsuch*.

VI. Added Claims 55-57

Claims 55-57 have been added to further distinguish over the cited prior art.

VII. Conclusion

Based on the above amendments and these remarks, reconsideration of claims1-10, 12-27 and 29-54 and consideration of added claims 55-57 is respectfully requested.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 501826 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

Date: April 30, 2003

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